

REMARKS/ARGUMENTS

Claims 1-49 are pending in the application. The Examiner has rejected claims 1-49. Applicant respectfully requests reconsideration of pending claims 1-49.

The Examiner has rejected claims 1-42 and 49 under 35 U.S.C. § 103(a) as allegedly being unpatentable over MacKay (U.S. Patent No. 4,052,566) in view of Pauwels (EP 1 109 366 A1). Applicant respectfully disagrees.

As to claims 1-19, Applicant notes claim 1 recites, in part, "...during a first duration consisting of a first specified counting interval and a first specified settling interval after the first specified counting interval elapses...." However, Applicant notes the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching such feature. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness with respect to claims 1-19.

Also, Applicant notes the Examiner alleges element 40 of the MacKay reference teaches "a first transmission unit counter" and element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 11-15, "The connector 37 is connected to a reset terminal of a counter 40 which counter is connected by the connector 31 to count the clock pulses of the clock 25 in the transmitter 12A." Thus, Applicant submits the MacKay reference fails to disclose "performing a first datapath ingress transmission unit counting operation..., wherein a first datapath ingress transmission unit count is determined."

Additionally, Applicant notes the Examiner alleges element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 39-42, "The connector 67 is connected to a reset terminal of a counter 70 which counter is connected by the connector 61 to count the clock pulses of the clock 55 in the receiver 12D." Thus, Applicant submits the MacKay reference fails to disclose "performing a first datapath egress transmission unit counting operation..., wherein a first datapath egress transmission unit count is determined."

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein the first specified counting interval and the first

specified settling interval are each respective prescribed intervals of time," as recited in claim 2. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein the first specified settling interval is dependent upon a propagation delay through the datapath between the first counter of the first transmission unit counter set and the first counter of the second transmission unit counter set," as recited in claim 3. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...inserting a first trigger transmission unit upstream of the first transmission unit counter set for activating the first counter of the first transmission unit counter set and the first counter of the second transmission unit counter set during the first specified counting interval..." as recited in claim 4. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...confirming that the first trigger transmission unit is received by the first transmission unit counter set and by the second transmission unit counter set prior to indicating the fault condition associated with the first specified counting interval," as recited in claim 4. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...adjusting a counter indicator associated with the first transmission unit counter set to a state indicating the first counter of the first transmission unit counter set is active in response to the first trigger transmission unit being received by the first transmission unit counter set..." as recited in claim 5. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...adjusting a counter indicator associated with the second transmission unit counter set to a state indicating the first counter of the second transmission unit counter set is active in response to the first trigger transmission unit being received by the second transmission unit counter set..." as recited in claim 5. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein confirming includes checking the states of the counter indicator associated with the first transmission unit counter set and the counter indicator associated with the second transmission unit counter set prior to indicating the fault condition

associated with the first specified counting interval," as recited in claim 5. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...inserting a first trigger transmission unit upstream of the first transmission unit counter set for activating the first counter of the first transmission unit counter set and the first counter of the second transmission unit counter set during the first specified counting interval..." as recited in claim 6. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...inserting a second trigger transmission unit upstream of the first transmission unit counter set for activating a second counter of the first transmission unit counter set and a second counter of the second transmission unit counter set during a second specified counting interval following the first specified counting interval..." as recited in claim 6. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...confirming that the second trigger transmission unit is received by the first transmission unit counter set and by the second transmission unit counter set prior to indicating the fault condition associated with the first specified counting interval," as recited in claim 6. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein indicating the fault condition is performed after confirming that a first trigger transmission unit has been received by the first transmission unit counter set and by the second transmission unit counter set," as recited in claim 7. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein indicating the fault condition is performed after confirming that a second trigger transmission unit, transmission of which occurs after transmission of a first trigger transmission unit, has been received by the first transmission unit counter set and by the second transmission unit counter set," as recited in claim 8. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...performing the first datapath ingress transmission unit

counting operation includes tagging transmission units received at a first transmission unit designating location during the first specified counting interval as first designated transmission units and counting said first designated transmission units received at the first counter of the first transmission unit counter set....," as recited in claim 9. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...performing the first datapath egress transmission unit counting operation includes counting said first designated transmission units received at the first counter of the second transmission unit counter set during the first specified counting interval and during the first specified settling interval," as recited in claim 9. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein tagging said transmission units includes setting at least one bit of each said transmission units to a first prescribed setting," as recited in claim 10. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein said at least one bit is located similarly within each one of said transmission units," as recited in claim 11. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein indicating the fault condition associated with the first specified counting interval includes comparing the first datapath ingress transmission unit count with the first datapath egress transmission unit count for determining the difference therebetween," as recited in claim 12. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...initiating a second specified counting interval after the first specified counting interval elapses....," as recited in claim 13. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...performing a second datapath ingress transmission unit counting operation, of transmission units designated during the second specified counting interval, at a second counter of the first transmission unit counter set in the datapath, wherein a second datapath ingress transmission unit count is

determined..." as recited in claim 13. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...performing a second datapath egress transmission unit counting operation, during a second duration consisting of the second specified counting interval and a second specified settling interval after the second specified counting interval elapses, at a second counter of the second transmission unit counter set in the datapath, wherein a second datapath egress transmission unit count is determined..." as recited in claim 13. Additionally, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...indicating a fault condition associated with the second specified counting interval when a difference is determined between the second datapath ingress transmission unit count and the second datapath egress transmission unit count after the second specified settling interval elapses," as recited in claim 13. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein at least one datapath unit is coupled between the first transmission unit counter set and the second transmission unit counter set," as recited in claim 14. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...performing a first datapath intermediary transmission unit counting operation during the first duration at a first counter of a third transmission unit counter set in the datapath, wherein a first datapath intermediary transmission unit count is determined, the third transmission unit counter set being situated between the first transmission unit counter set and the second transmission unit counter set along the datapath," as recited in claim 15. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...comparing the first datapath intermediary transmission unit count to the first datapath ingress transmission unit count to identify a first fault status pertaining to a first portion of the datapath between the first transmission unit counter set and the third transmission unit counter set..." as recited in claim 16. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...comparing the first datapath egress transmission unit count to the first datapath intermediary transmission unit count to identify a second fault status pertaining to a second portion of the datapath between the third

transmission unit counter set and the second transmission unit counter set," as recited in claim 16. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...performing a first datapath second egress transmission unit counting operation during the first duration at a first counter of a third transmission unit counter set in the datapath, wherein a first datapath second egress transmission unit count is determined, the third transmission unit counter set being situated along a path branching from the datapath between the first transmission unit counter set and the second transmission unit counter set," as recited in claim 17. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein identical transmission units are provided to the second transmission unit counter set and the third transmission unit counter set and wherein indicating a fault condition associated with the first specified counting interval alternatively occurs when a difference is determined between the first datapath ingress transmission unit count and the first datapath second egress transmission unit count after the first specified settling interval elapses," as recited in claim 18. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein performing a first datapath egress transmission unit counting operation is further performed at a first counter of a third transmission unit counter set, the third transmission unit counter set being situated along a path branching from the datapath between the first transmission unit counter set and the second transmission unit counter set, wherein the first datapath egress transmission unit count is further determined according to a sum of a first portion of transmission units counted at the first transmission unit counter set and a second portion of transmission units counted at the third transmission unit counter set," as recited in claim 19. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

For the foregoing reasons, Applicant submits the Examiner has not established a *prima facie* showing of obviousness with respect to claims 1-42 and 49. Thus, Applicant submits claims 1-42 and 49 are in condition for allowance.

As to claims 20-31, 32-42, and 49, Applicant notes claim 20 recites, in part, "...while processing first transmission units so designated during a first duration consisting of the first specified counting interval and a first specified settling interval after the first specified counting interval elapses...", "...during the first duration...", and "...after the first specified settling interval elapses." However, Applicant notes the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching such features. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness with respect to claims 20-31.

Also, Applicant notes the Examiner alleges element 40 of the MacKay reference teaches "a first transmission unit counter" and element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 11-15, "The connector 37 is connected to a reset terminal of a counter 40 which counter is connected by the connector 31 to count the clock pulses of the clock 25 in the transmitter 12A." Thus, Applicant submits the MacKay reference fails to disclose "...performing a first transmission unit counting process for determining a first datapath ingress transmission unit count...."

Additionally, Applicant notes the Examiner alleges element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 39-42, "The connector 67 is connected to a reset terminal of a counter 70 which counter is connected by the connector 61 to count the clock pulses of the clock 55 in the receiver 12D." Thus, Applicant submits the MacKay reference fails to disclose "...performing a first transmission unit counting process for determining...a first datapath egress transmission unit count...."

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein determining the first datapath ingress transmission unit count includes summing an ingress transmission unit count facilitated by the first transmission unit counter of each one of said ingress transmission unit counter sets," as recited in claim 21. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...inserting a respective first trigger transmission unit upstream of the first counter of each one of said ingress transmission unit counter sets during the first specified counting interval for activating the first counter of each one of said ingress transmission unit counter sets and the first counter of the egress transmission unit counter set...", as recited in claim 22.

Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...confirming that the respective first trigger transmission unit inserted upstream of the first counter of each one of said ingress transmission unit counter sets is received by the first counter of each one of said ingress transmission unit counter sets and by the first counter of the egress transmission unit counter set prior to indicating the fault condition associated with the first specified counting interval," as recited in claim 22. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...adjusting a counter indicator associated with each one of said ingress transmission unit counter sets to a respective state indicating the first counter of each one of said ingress transmission unit counter sets is active in response to the respective first trigger transmission unit being received by the first counter of a respective one of said ingress transmission unit counter sets..." as recited in claim 23. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...adjusting a counter indicator associated with the egress transmission unit counter set to a state indicating the first counter of the egress transmission unit counter set is active in response to the first trigger transmission unit being received by the first counter of the egress transmission unit counter set..." as recited in claim 23. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein confirming includes verifying that the counter indicator associated with each one of said ingress transmission unit counter sets and the counter indicator associated with the egress transmission unit counter set indicate respective active states prior to indicating the fault condition associated with the first specified counting interval," as recited in claim 23. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...inserting a respective first trigger transmission unit upstream of the first counter of each one of said ingress transmission unit counter sets during the first specified counting interval for activating the first counter of each one of said ingress transmission unit counter sets and the first counter of the egress transmission unit counter set..." as recited in claim 24. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...inserting a respective second trigger transmission unit

upstream of the first counter of each one of said ingress transmission unit counter sets during the first specified counting interval for activating a second counter of each one of said ingress transmission unit counter sets and a second counter of the egress transmission unit counter set..." as recited in claim 24. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...confirming that the respective second trigger transmission unit inserted upstream of the first counter of each one of said ingress transmission unit counter sets is received by each one of said ingress transmission unit counter sets and by the egress transmission unit counter set prior to indicating the fault condition associated with the first specified counting interval," as recited in claim 24. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein indicating the fault condition associated with the first specified counting interval is performed after confirming that a respective first trigger transmission unit has been received by the first counter of each one of said ingress transmission unit counter sets and by the first counter of the egress transmission unit counter set," as recited in claim 25. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...tagging transmission units at a first designating location during the first specified counting interval as first designated transmission units to be received by at least one of said ingress transmission unit counting sets," as recited in claim 26. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...counting said first designated transmission units received at said ingress transmission unit counting sets," as recited in claim 26. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...counting said first designated transmission units received at the egress transmission unit counter set during the first duration," as recited in claim 26. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein tagging of said transmission units includes setting at least one bit of each said transmission units to a first prescribed setting," as recited in claim 27. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein said at least one bit is located similarly within each one of said transmission units," as recited in claim 28. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein indicating a fault condition includes comparing the first datapath ingress transmission unit count with the first datapath egress transmission unit count for determining the difference associated with the first specified counting interval," as recited in claim 29. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...initiating a second specified counting interval after the first specified counting interval elapses...", as recited in claim 30. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...performing a second transmission unit counting process for determining a second datapath ingress transmission unit count and a second datapath egress transmission unit count, wherein the second datapath ingress transmission unit count is facilitated by a second transmission unit counter of said ingress transmission unit counter sets while processing second transmission units so designated during the second specified counting interval and the second datapath egress transmission unit count is facilitated, during a second duration consisting of a second specified counting interval and a second specified settling interval after the second specified counting interval elapses, by a second transmission unit counter of the egress transmission unit counter set...", as recited in claim 30. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...indicating a fault condition associated with the second specified counting interval when a difference is determined between the second datapath ingress transmission unit count and the second datapath egress transmission unit count after the second specified settling interval elapses," as recited in claim 30. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein at least one datapath unit is coupled between the ingress transmission unit counter sets and the egress transmission unit counter set," as recited in claim 31. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

For the foregoing reasons, Applicant submits the Examiner has not established a *prima facie* showing of obviousness with respect to claims 20-31. Thus, Applicant submits claims 20-31 are in condition for allowance.

Applicant notes claim 32 recites, in part, "...determining a first datapath ingress transmission unit count...during a first duration consisting of the first specified counting interval and a first specified settling interval after the first specified counting interval elapses...", "determining a first datapath egress transmission unit count...during the first duration...", and "indicating a transmission unit fault condition associated with the first specified counting interval when a difference is determined between the first datapath ingress transmission unit count and the first datapath egress transmission unit count after the first specified settling interval elapses." However, Applicant notes the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching such features. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness with respect to claims 32-42.

Also, Applicant notes the Examiner alleges element 40 of the MacKay reference teaches "a first transmission unit counter" and element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 11-15, "The connector 37 is connected to a reset terminal of a counter 40 which counter is connected by the connector 31 to count the clock pulses of the clock 25 in the transmitter 12A." Thus, Applicant submits the MacKay reference fails to disclose "...determining a first datapath ingress transmission unit count for said designated transmission units...."

Additionally, Applicant notes the Examiner alleges element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 39-42, "The connector 67 is connected to a reset terminal of a counter 70 which counter is connected by the connector 61 to count the clock pulses of the clock 55 in the receiver 12D." Thus, Applicant submits the MacKay reference fails to disclose "...determining a first datapath egress transmission unit count for said designated transmission units...."

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...inserting a first trigger transmission unit upstream of said first transmission unit counter set for activating the first counter of the transmission unit counter set at the first counting location and the first counter of the transmission unit counter set at the second

counting location...," as recited in claim 33. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...confirming that the first trigger transmission unit is received by the first counter of the transmission unit counter set at the first counting location and the first counter of the transmission unit counter set at the second counting location prior to indicating the fault condition associated with the first specified counting interval," as recited in claim 33. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...adjusting a counter indicator associated with the transmission unit counter set at the first counting location to a state indicating the first counter of the transmission unit counter set at the first counting location being active in response to the first trigger transmission unit being received by the first counter of the transmission unit counter set at the first counting location...," as recited in claim 34. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...adjusting a counter indicator associated with the transmission unit counter set at the second counting location to a state indicating the first counter of the transmission unit counter set at the second counting location being active in response to the first trigger transmission unit being received by the first counter of the transmission unit counter set at the second counting location...," as recited in claim 34. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein confirming includes checking the states of the counter indicator associated with the transmission unit counter set at the first counting location and the counter indicator associated with the transmission unit counter set at the second counting location prior to indicating the fault condition associated with the first specified counting interval," as recited in claim 34. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein indicating the fault condition associated with the first specified counting interval is performed after confirming that a second trigger transmission unit has been received by the first counter of the first transmission unit counter set and by the first counter of the second transmission unit counter set...," as recited in claim 35. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...designating said transmission units includes tagging said transmission units as being first designated transmission units when received at the designating location during the first specified counting interval...", as recited in claim 36. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...determining the first datapath ingress transmission unit count includes counting said first designated transmission units received at the first counter of the transmission unit counting set at the first counting location during the first duration...", as recited in claim 36. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...determining the first datapath egress transmission unit count includes counting said first designated transmission units received at the first counter of the transmission unit counter set at the second counting location during the first duration," as recited in claim 36. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein tagging said transmission units includes setting at least one bit of each said transmission units to a first prescribed setting," as recited in claim 37. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein said at least one bit is located similarly within each one of said transmission units," as recited in claim 38. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...designating transmission units entering the designating location of the datapath during a second specified counting interval as second designated transmission units...", as recited in claim 39. Also, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...determining a second datapath ingress transmission unit count for said second designated transmission units received at the first counting location during a second duration consisting of the second specified counting interval after the first specified counting interval elapses and a second specified settling interval after the second specified counting interval elapses, wherein determining the second datapath ingress

transmission unit count is facilitated by a second counter of the transmission unit counter set at the first counting location..." as recited in claim 39. Furthermore, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...determining a second datapath egress transmission unit count for said second designated transmission units received at the second counting location of the datapath adjacent to the first counting location during the second duration, wherein determining the second datapath egress transmission unit count is facilitated by a second counter of the transmission unit counter set at the second counting location..." as recited in claim 39. Additionally, Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...indicating a transmission unit fault condition associated with the second specified counting interval when a difference is determined between the second datapath ingress transmission unit count and the second datapath egress transmission unit count after the second specified settling interval elapses," as recited in claim 39. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein at least one datapath unit is coupled between the transmission unit counter set at the first counting location and the transmission unit counter set at the second counting location," as recited in claim 40. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein determining the first datapath ingress transmission unit count is further performed at a third counting location and is further facilitated by a first counter of a transmission unit counter set at the third counting location," as recited in claim 41. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein determining the first datapath egress transmission unit count is further performed at a third counting location and is further facilitated by a first counter of a transmission unit counter set at the third counting location," as recited in claim 42. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

For the foregoing reasons, Applicant submits the Examiner has not established a *prima facie* showing of obviousness with respect to claims 32-42. Thus, Applicant submits claims 32-42 are in condition for allowance.

Applicant notes claim 49 recites, in part, "...means for performing a first datapath ingress transmission unit counting operation, during a duration consisting of a first specified counting interval and a first specified settling interval after the first specified counting interval elapses...", "...means for performing a first datapath egress transmission unit counting operation during the duration...", and "...means for indicating a fault condition associated with the first specified counting interval when a difference is determined between the first datapath ingress transmission unit count and the first datapath egress transmission unit count after the first specified settling interval elapses." However, Applicant notes the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching such features. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness with respect to claim 49.

Also, Applicant notes the Examiner alleges element 40 of the MacKay reference teaches "a first transmission unit counter" and element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 11-15, "The connector 37 is connected to a reset terminal of a counter 40 which counter is connected by the connector 31 to count the clock pulses of the clock 25 in the transmitter 12A." Thus, Applicant submits the MacKay reference fails to disclose "...means for performing a first datapath ingress transmission unit counting operation...."

Additionally, Applicant notes the Examiner alleges element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 39-42, "The connector 67 is connected to a reset terminal of a counter 70 which counter is connected by the connector 61 to count the clock pulses of the clock 55 in the receiver 12D." Thus, Applicant submits the MacKay reference fails to disclose "...means for performing a first datapath egress transmission unit counting operation...."

For the foregoing reasons, Applicant submits the Examiner has not established a *prima facie* showing of obviousness with respect to claim 49. Thus, Applicant submits claim 49 is in condition for allowance.

The Examiner has rejected claims 43-48 under 35 U.S.C. § 103(a) as allegedly being unpatentable over MacKay (U.S. Patent No. 4,052,566) in view of Pauwels (EP 1 109 366 A1) as applied to claims 1-42 and 49 above, and further in view of Matsunaga et al. (U.S. Patent No. 6,115,417). Applicant respectfully disagrees.

As to claims 43-48, Applicant notes the Examiner alleges element 40 of the MacKay reference teaches "a first transmission unit counter" and element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 11-15, "The connector 37 is connected to a reset terminal of a counter 40 which counter is connected by the connector 31 to count the clock pulses of the clock 25 in the transmitter 12A." Thus, Applicant submits the MacKay reference fails to disclose "...wherein the first transmission unit counter set...is capable of facilitating a datapath ingress transmission unit count...."

Additionally, Applicant notes the Examiner alleges element 70 of the MacKay reference teaches "a second transmission unit counter." However, Applicant notes the MacKay reference states, in col. 3, lines 39-42, "The connector 67 is connected to a reset terminal of a counter 70 which counter is connected by the connector 61 to count the clock pulses of the clock 55 in the receiver 12D." Thus, Applicant submits the MacKay reference fails to disclose "...wherein the second transmission unit counter set...is capable of facilitating a datapath egress transmission unit count...."

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...a counter activation module coupled in the datapath for activating a first counter of the first plurality of counters and for subsequently activating a second counter of the first plurality of counters," as recited in claim 44. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein the counter activation module activates the first counter of the first plurality of counters to count a first group of transmission units passing the counter activation module along the datapath during a first period of time," as recited in claim 45. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein the counter activation module activates the first counter of the first plurality of counters to count a second group of the transmission units passing the

counter activation module along the datapath during a second period of time," as recited in claim 46. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein the counter activation module activates the first counter of the first plurality of counters by tagging the first group of the transmission units," as recited in claim 47. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

Applicant submits the Examiner has failed to allege any of the cited references, either alone or in combination, as supposedly teaching "...wherein the counter activation module activates the first counter of the first plurality of counters by inserting a trigger transmission unit among the transmission units," as recited in claim 48. Thus, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness.

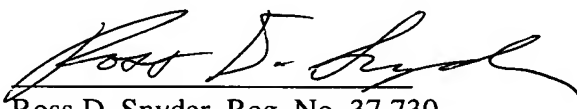
For the foregoing reasons, Applicant submits the Examiner has not established a *prima facie* showing of obviousness with respect to claims 43-48. Thus, Applicant submits claims 43-48 are in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

Date

12/13/2006



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